

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS-----X
BRIAN DUFFNER,

Plaintiff,

-against-

HOLY TRINITY ROMAN CATHOLIC CHURCH,
HOLY TRINITY SCHOOL, ROMAN CATHOLIC
DIOCESE OF BROOKLYN, JOHN DOE and JANE DOE,
RICHARD ROE, and JANE ROE, priests, clergy and
administrators whose names are unknown to Plaintiff,

Defendants.

Index No.
Date Purchased:Plaintiff designates
QUEENS
County as the place of trial.The basis of the venue is
Defendants' place of
business.**SUMMONS**-----X
To the above named Defendant(s)

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
August 14, 2019



MICHAEL G. DOWD
Attorney for Plaintiff
600 Third Avenue, 15th Floor
New York, NY 10016
(212) 751-1640

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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BRIAN DUFFNER,

Plaintiff,

Index No.
Date Filed:

-against-

HOLY TRINITY ROMAN CATHOLIC CHURCH,
HOLY TRINITY SCHOOL, ROMAN CATHOLIC
DIOCESE OF BROOKLYN, JOHN DOE and JANE DOE,
RICHARD ROE, and JANE ROE, priests, clergy and
administrators whose names are unknown to Plaintiff,
Defendants.

VERIFIED COMPLAINT

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Plaintiff, Brian Duffner, by his attorney, MICHAEL G. DOWD, complaining of
Defendants, hereby alleges the following:

AS AND FOR A FIRST CAUSE OF ACTION**(NEGLIGENT SUPERVISION)**

1. The Plaintiff, Brian Duffner (hereinafter "Plaintiff") was born on July 20, 1957. He is a resident of Florida.
2. Plaintiff is a Roman Catholic and was a parishioner at Defendant HOLY TRINITY ROMAN CATHOLIC CHURCH (hereinafter "HOLY TRINITY"), which is a parish within the Defendant ROMAN CATHOLIC DIOCESE OF BROOKLYN (hereinafter "DIOCESE OF BROOKLYN").
3. Plaintiff was baptized, confirmed, attended mass, and received his sacraments through the Roman Catholic Church.
4. Upon information and belief, at all times mentioned herein, the DIOCESE OF BROOKLYN was and is a not-for-profit religious corporation organized and existing around and under by virtue of the laws of the State of New York. Its

principal headquarters are located in Brooklyn, New York, which is in Kings County.

5. Upon information and belief, Bishop Nicholas DiMarzio is currently the Roman Catholic Bishop of the DIOCESE OF BROOKLYN.
6. Upon information and belief, Bishop Nicholas DiMarzio is the Chief Executive Officer of all schools in the DIOCESE OF BROOKLYN and as part of said responsibilities assigned the priests to work in HOLY TRINITY, including FATHER JAMES SMITH.
7. Upon information and belief, all of Bishop Nicholas DiMarzio's predecessor(s) were the Chief Executive Officer(s) of all schools in the DIOCESE OF BROOKLYN and as part of said responsibilities assigned the priests to work in HOLY TRINITY, including Father James Smith. This includes Bishop Nicholas DiMarzio and all prior bishops of the Diocese who assigned Father James Smith to his parish positions.
8. Upon information and belief, at all times mentioned herein, Defendant DIOCESE OF BROOKLYN created the policies and procedures to be followed by priests within the DIOCESE OF BROOKLYN. Defendant DIOCESE OF BROOKLYN was responsible for investigating complaints against its HOLY TRINITY clergy. In this capacity, either directly or through Diocesan officials appointed by them, established policies and procedures by which complaints of sexual abuse against HOLY TRINITY clergy, priests, and staff were to be dealt with and investigated by the DIOCESE OF BROOKLYN.

9. Upon information and belief, at all times mentioned herein, the DIOCESE OF BROOKLYN was also responsible for removing and/or suspending HOLY TRINITY clergy and priests from their duties.
10. Upon information and belief, at all times relevant, the DIOCESE OF BROOKLYN was in charge of supervising all Catholic schools within its geographical boundaries, including the school at HOLY TRINITY and developed and approved the curriculum, both religious and secular, for all these schools.
11. Upon information and belief, at all times mentioned herein, Defendant DIOCESE OF BROOKLYN also appointed the school principals and controlled the hiring and training of the teachers in its schools.
12. Upon information and belief, at all times mentioned herein, Father James Smith was the priest of Defendant HOLY TRINITY having been assigned and otherwise authorized to work there by the then Bishop predecessor of Bishop Nicholas DiMarzio.
13. Upon information and belief, Defendant HOLY TRINITY is a Roman Catholic Church within the DIOCESE OF BROOKLYN in the County of Queens.
14. Sometime after Plaintiff became a member of HOLY TRINITY, Father James Smith began a pattern of grooming Plaintiff for the purpose of sexually abusing him. This grooming, included but was not limited to, complimenting Plaintiff's appearance and giving him special attention, praise, privileges, as well as presents, including rubbing his back and placing him on his lap.

15. Sometime when Plaintiff was in third or fourth grade at HOLY TRINITY SCHOOL and was an altar boy at the parish church, Father James Smith began a pattern of fondling Plaintiff at least 1,000 times between the fourth grade and Plaintiff's freshman year at Archbishop Molloy High School. In addition, Father James Smith subjected Plaintiff to at least approximately 300 occasions of having the Plaintiff perform oral sex on Father James Smith and Father James Smith performing oral sex on the Plaintiff. This abuse took place at multiple locations, many happening at the parish church and school to the defendant's residence, summer home, many fishing trips, in the defendant's car and at Shea Stadium.
16. Upon information and belief, at all times mentioned herein, Defendant DIOCESE OF BROOKLYN knew or should have known that children such as Plaintiff were present in the HOLY TRINITY rectory for a variety of purposes, including counseling and work and that priests also took overnight trips with young children such as Plaintiff.
17. Upon information and belief, at all times mentioned herein, Defendant DIOCESE OF BROOKLYN knew or should have known that as part of a priest's duties and in furtherance of cultivating a trusting relationship with children, priests visited children's homes such as that of PLAINTIFF's family to meet with children and their parents.
18. Upon information and belief, sometime in 2018/2019 a list of credibly abusing priests was listed by the DIOCESE OF BROOKLYN. The fact that Father James Smith was included on that list of credibly accused priests is an admission by Defendant DIOCESE OF BROOKLYN that Father James Smith sexually abused

minors.

19. Upon information and belief, Plaintiff was taught and otherwise informed by Defendants DIOCESE OF BROOKLYN and HOLY TRINITY by word and deed that he should obey, trust, and respect the DIOCESE OF BROOKLYN and Father James Smith.
20. Upon information and belief, since at least 1950 through present, Defendants DIOCESE OF BROOKLYN and HOLY TRINITY knew the risk of sexual abuse of minors by priests and other staff working in the DIOCESE OF BROOKLYN.
21. Upon information and belief, at all times mentioned herein, Defendants DIOCESE OF BROOKLYN and HOLY TRINITY knew that minors sexually abused in the Catholic Church would suffer psychological and emotional injuries, as well as other damages.
22. Upon information and belief, at all times mentioned herein, Defendant DIOCESE OF BROOKLYN aided and abetted the concealment of criminal conduct by failing and refusing to report allegations of child sexual abuse to appropriate New York civil authorities.
23. Upon information and belief, at the time of the acts alleged herein, Father James Smith was an employee of and acting as an agent of Defendants HOLY TRINITY and DIOCESE OF BROOKLYN.
24. Upon information and belief, at the time of the acts alleged herein, the predecessor of Bishop Nicholas DiMarzio was the executive in charge of the DIOCESE OF BROOKLYN and acting as an agent in the scope of his employment of the DIOCESE OF BROOKLYN.

25. Upon information and belief, Defendant DIOCESE OF BROOKLYN had a duty to protect Plaintiff, as a minor HOLY TRINITY parishioner, from Father James Smith's criminal sexual acts.
26. Upon information and belief, Defendants DIOCESE OF BROOKLYN and HOLY TRINITY failed to adequately and completely supervise Father James Smith and as a result of this failure and negligence, proximately caused Plaintiff to be sexually abused by Father James Smith.
27. The aforementioned occurrences of sexual abuse were caused by the negligence, carelessness, recklessness, and the willful, wanton, reckless and grossly negligent conduct of Defendants HOLY TRINITY and DIOCESE OF BROOKLYN and their agents, servants, and/or employees, in failing to properly and adequately supervise the conduct of Father James Smith as it related to Plaintiff.
28. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, depression, fright, anxiety, a severe shock his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.

29. That by reason of the foregoing, Defendants DIOCESE OF BROOKLYN and HOLY TRINITY are also liable to Plaintiff for punitive and exemplary damages.
30. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).
31. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION

(NEGLIGENT FAILURE TO WARN)

32. Plaintiff repeats, reiterates, and realleges each and every allegation contained in the above paragraphs of this Complaint, with the same force and effect as if fully set forth at length herein.
33. Upon information and belief, prior to and at all times herein mentioned, Defendants HOLY TRINITY, DIOCESE OF BROOKLYN, and their agents, servants, and employees, knew or should have known that Father James Smith violated DIOCESE OF BROOKLYN and HOLY TRINITY's relevant rules, regulations and protocols prohibiting priests like Father James Smith from sexually abusing and otherwise harming minor parishioners, including Plaintiff.
34. The Defendants HOLY TRINITY and DIOCESE OF BROOKLYN and their agents, servants, and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to warn Plaintiff that the failure of Father James Smith to abide by DIOCESE OF BROOKLYN and

HOLY TRINITY's rules, regulations and protocols regarding prohibitions on employees being alone with minor parishioners put Plaintiff at risk for being sexually abused by Father James Smith.

35. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.
36. That by reason of the foregoing, Defendants DIOCESE OF BROOKLYN and HOLY TRINITY are also liable to Plaintiff for punitive and exemplary damages.
37. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).
38. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION

(NEGLIGENT FAILURE TO PROVIDE A SAFE AND SECURE ENVIRONMENT)

39. Plaintiff repeats, reiterates, and realleges each and every allegation contained in the above paragraphs of this Complaint, with the same force and effect as if fully

set forth at length herein.

40. The Defendants DIOCESE OF BROOKLYN and HOLY TRINITY assumed a duty to protect the safety and welfare of Plaintiff as more fully set forth above, when Plaintiff participated as a parishioner in HOLY TRINITY related activities, such as the altar boy program. The duty to provide a reasonably safe and secure environment for Plaintiff was imposed upon said Defendants while he was participating in HOLY TRINITY's programs.
41. When Plaintiff was in said Defendants' care, said Defendants failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.
42. Defendants DIOCESE OF BROOKLYN and HOLY TRINITY and their agents and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to provide a safe and secure environment for Plaintiff while he participated as a minor in HOLY TRINITY's programs and as such was sexually abused by Father James Smith.
43. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.

44. That by reason of the foregoing, Defendants DIOCESE OF BROOKLYN and HOLY TRINITY are also liable to Plaintiff for punitive and exemplary damages.

45. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).

46. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands judgment against the Defendants, together with compensatory and punitive damages, and the interest, costs and disbursements pursuant to the causes of action herein.

Dated: New York, New York
August 14, 2019



MICHAEL G. DOWD
Attorney for Plaintiff
600 Third Avenue, 15th Floor
New York, NY 10016
(212) 751-1640

VERIFICATION BY ATTORNEY

MICHAEL G. DOWD, an attorney being duly admitted before the courts of the State of New York, hereby affirms the following under penalties of perjury:

That he is an attorney for Plaintiff Brian Duffner in the above-entitled action with offices located at 600 Third Avenue, New York, New York; that he has read the foregoing VERIFIED COMPLAINT and knows the contents thereof; that the same is true to his knowledge, except as to the matters stated to be alleged upon information and belief, and that as to those matters he believes them to be true.

That the reason why this verification is made by deponent instead of Plaintiff is because Plaintiff is not within the County of New York where deponent has his office. Deponent further says that the grounds of his belief as to all matters in the VERIFIED COMPLAINT not stated to be upon his knowledge are based upon conversations with the Plaintiff and other writings relevant to this action.

Dated: New York, New York
August 14, 2019



MICHAEL G. DOWD